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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Virginia State Corporation Commission's
Petition for Delegation of Additional Authority
to Implement Area Code Conservation Measures

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File No. NSD-L-99-95

CC Dkt. No. 96-98

Comments of Omnipoint Communications, Inc.

Benjamin H. Dickens, Jr.
Michael B. Adams, Jr.
Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, D.C. 20037

Its Attorneys

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Summary

Omnipoint Communications, Inc. (“Omnipoint”) continues to oppose granting additional number conservation authority on an “interim” basis to state regulators such as the Virginia State Corporation Commission (“VSCC”) before uniform, national conservation policies are in place. The Commission’s recent decisions granting such temporary authority to the states of California, Connecticut, Florida, Massachusetts, Maine, New Hampshire, New York, Ohio, Texas and Wisconsin are already starting to produce the inefficient and disruptive patchwork of state-based numbering policies which Omnipoint has long predicted. Worse, much or all of the effort involved in implementing these state-based measures will be wasted if they are modified or preempted within the coming year by the Commission’s forthcoming rules in CC Docket 99-200. Omnipoint therefore urges the Commission to abandon this mistaken course of decisions, and to stop delegating numbering authority to the states until after it has finished revising the national standards.

Omnipoint strongly opposes the VSCC’s request for authority to set or enforce its own allocation standards, particularly due to the potentially negative effect such a devolution of authority would have on commercial mobile radio service (“CMRS”) providers. Although CMRS providers are able to allocate number resources both more efficiently and with greater speed than wireline carriers, these efficiencies leave them acutely exposed to numbering shortages, which develop more rapidly for CMRS providers and effect a much wider service area. Moreover, fill rate and reclamation policies that are tailored to the usage patterns of wireline providers typically leave CMRS providers on the brink of exhausting their assigned codes. Each of these results places

CMRS providers at a significant competitive disadvantage, and illustrate the risks of allowing state regulators such as the VSCC to adopt such measures in the absence of uniform, national policies.

For similar reasons of uniformity and consistency, Omnipoint opposes the VSCC's request for the authority to order the return of unused codes, reserved codes or thousand-blocks from carriers with "excess number resources." Omnipoint stresses that the NANPA – not individual states – should continue to be the party responsible for such reclamation and enforcement actions.

The VSCC should not be allowed to impose additional number utilization reporting by carriers. Such state-specific reporting requirements will be both inefficient and largely pointless given the Commission's pending overhaul of the CO Code Use Survey ("COCUS") as well as the forthcoming national standards on number utilization. Omnipoint specifically opposes the VSCC's requests, however, because they go beyond the authority the Commission has delegated in the past – namely, giving state regulators the power to require mandatory carrier participation in the COCUS – and raise serious confidentiality issues. Omnipoint similarly opposes granting the VSCC any additional auditing authority over carrier COCUS responses and code requests.

Omnipoint opposes the VSCC's request that it be allowed to order the sequential use of numbers within a NXX code or thousand-blocks. Requiring carriers such as Omnipoint to change its number reservation policies in this manner will be wasteful and disruptive, especially at a time when CMRS providers such as Omnipoint are not required to participate in the number pooling trials underlying this request.

Omnipoint opposes the VSCC's vague and open-ended request to maintain

rationing procedures for “at least” six months after implementing area code relief. The VSCC’s claim that such power would help it control the “artificial increase in demand” for remaining NXXs is unsubstantiated, and fails to support the VSCC’s extremely broad request. Omnipoint also opposes such rationing measures since they disproportionately impact CMRS carriers, and place them at a competitive disadvantage.

In the absence of national standards, Omnipoint opposes the VSCC’s request that it be permitted to order “nondiscriminatory” mandatory thousand-block number pooling. Omnipoint requests that if the Commission does allow the VSCC the authority to undertake number pooling trials, it should continue to ensure that number pooling trials are limited to LNP-capable carriers.

Lastly, Omnipoint renews its request that the Commission reconsider its current policy against using of wireless-only and technology-specific overlays, and strongly recommends that the Commission require that future NPAs be implemented as overlay codes instead of splits in order to maximize their effectiveness.

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Comments of Omnipoint Communications, Inc.

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, respectfully submits its comments in response to the Commission's December 20, 1999 Public Notice in the above-referenced proceeding, which requested comments concerning the Petition by the Virginia State Corporation Commission ("VSCC") for additional delegated numbering authority. Specifically, the VSCC requests the authority to: (1) enforce current number allocation standards, or to establish and enforce new standards; (2) order the submission of utilization and forecast data from all carriers; (3) order carriers to return unused, reserved or under-utilized portions of NXX codes; (4) require sequential numbering assignments; (5) maintain rationing procedures for six months following area code relief; (6) institute thousand-block number pooling; and (7) hear and address claims by individual carriers requesting numbering resources outside of rationing procedures. For the reasons shown below, Omnipoint continues to oppose granting any such requests until the Commission has issued uniform, national guidelines governing number conservation.

**I. Granting the VSCC Additional Numbering Authority
 On a Temporary Basis Would Be Both Inefficient and Disruptive**

The VSCC has petitioned the Commission for additional authority to "implement policies that are consistent with FCC efforts over the past year to ensure that the public

interest is protected against repeated and unnecessary area code relief measures.”¹ The VSCC asserts that all four of Virginia’s area codes are in jeopardy, and will likely exhaust within the next two years.² The VSCC asserts that granting it additional numbering authority will allow it to slow the exhaustion of these codes and promote the efficient use of existing numbering resources.

The Commission should reject the VSCC’s requests for additional numbering authority in that they are plainly inconsistent with maintaining a single, unified and national numbering regime. As the Commission is well aware, the instant proceeding involves a series of national number administration and conservation matters that are already under consideration in CC Docket 99-200. For this reason, Omnipoint opposes granting the VSCC any additional numbering authority – even if it is temporary -- until the Commission has established centralized, national standards in this pending rulemaking. Until such federal measures are in place, granting the VSCC the powers it seeks will impose further inefficiencies and disruptions on both carriers and the North American Numbering Plan Administrator (“NANPA”).

As Omnipoint and many other parties have repeatedly stressed in related proceedings³ – and as the Commission has itself concluded in the past⁴ – the

¹ See VSCC Petition at 1.

² Id. at 2.

³ See Omnipoint Comments to the Petitions by California, Massachusetts, New York, Maine, and Florida for Additional Authority to Implement Telecommunications Numbering Conservation Methods, NSD File Nos. L-98-136/L-99-19/L-99-21/L-99-27/L-99-33, at 1-5 (filed July 16, 1999)(“Omnipoint State Comments”); see also Omnipoint Comments in CC Dkt. 99-200, at 2-5 (filed July 30, 1999)(“Omnipoint Numbering Comments”) and Omnipoint Comments to the Indiana Utility Regulatory Commission’s Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures, NSD File No. L-99-82 (filed Dec. 3, 1999).

⁴ See Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717;

establishment of uniform, national standards will prevent the decentralization of the national numbering system, preserve its unified administration by the NANPA, and maintain the Commission's ability to design and implement long-term plans and policies for extending the life of the NANP. It is therefore essential that the Commission prevent the states from enacting a fragmented, chaotic patchwork of differing regulatory requirements and conservation experiments, and ensure that the nation's numbering system continues to be governed by uniform, national conservation policies.⁵

Despite this record, in the last several months the Commission has nonetheless granted the states of California, Connecticut, Florida, Massachusetts, Maine, New Hampshire, New York, Ohio, Texas and Wisconsin additional "interim" authority over number administration. Absent a significant policy reversal, Omnipoint realizes that the Commission will now likely grant similar "interim" authority to states such as Virginia.⁶ Omnipoint finds this policy intensely frustrating, in part because the Commission itself acknowledges the serious administrative problems that may result, and the compliance problems that carriers may suffer. Worse, the Commission has also made clear that the "interim" measures taken by the states may soon be swept aside by the very national

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Memorandum Opinion and Order and Order on Reconsideration, 1998 FCC LEXIS 5036 (1998) at ¶ 21, citing In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Record 4596, 4602 (1995) ("Ameritech Order").

⁵ See, e.g., Omnipoint Numbering Comments at 2-5. As Omnipoint has stressed repeatedly to the Commission, it is critical to the continued development of competitive markets that numbering issues be governed by uniform, national standards. A decentralized system of state-run allocation mechanisms and conservation measures works to the detriment of non-incumbent carriers and new market entrants, which are forced to spend large amounts of money, time and human capital simply to comply with the demands of individual state regulators and pry loose sufficient number resources to meet customer demand. Id.

⁶ Nebraska, Indiana, Utah, Missouri, Iowa, Tennessee, Georgia, North Carolina, Colorado, Washington and Pennsylvania also have petitions for delegated authority before the Commission.

guidelines, standards, and procedures the Commission is currently developing in CC Docket 99-200.⁷

Omnipoint also notes its serious concern that once granted, the states may not be willing to relinquish their “interim” numbering authority back to the Commission. As the Commission is aware, in the last four years many states have vigorously challenged the Commission’s centralized, statutory authority over a diverse range of issues including universal service and local competition. Numbering may now be a new front in this battle over federal authority. These states’ increasingly aggressive demands for additional numbering authority may indicate an attempt to seize significant chunks of the Commission’s centralized policy-making authority over number resource allocation for their own. If this is the case, the Commission’s recent delegations of authority ultimately may permanently damage its own powers.

Besides the key importance of preserving the Commission’s jurisdiction, Omnipoint continues to stress that the developing state-by-state patchwork of numbering policies is turning out to be just as wasteful, inefficient, and disruptive as predicted.⁸ The

⁷ See, e.g., In the Matter of Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Dkt. No. 96-98, NSD Dkt. No. L-99-27, Order, at ¶¶ 13-16 (rel. Sept. 28, 1999).

⁸ Notwithstanding the Commission’s encouragement that states coordinate their number conservation experiments, such state-by-state delegations threaten to cause particularly serious compliance problems for CMRS providers such as Omnipoint, which generally serve multi-state licensed areas. As the Commission is aware, CMRS providers generally are licensed to operate in multi-state Major Trading Areas (“MTAs”) or Basic Trading Areas (“BTAs”). Cellular carriers serve either Metropolitan Statistical Areas (“MSAs”), which are also multi-state, or Rural Service Areas (“RSAs”) which are state-specific. The local Mobile Switching Centers (“MSCs”) and associated peripheral systems which CMRS providers use to serve these regions invariably serve customers in multiple states. Programming the MSCs to behave one way in State A and yet another way in State B is cumbersome, technically problematic, and extremely expensive. Consequently, if individual states are allowed to pick and choose from a wide menu of conservation methods – and do so in the absence of standard, well-defined requirements -- such improvisation will substantially increase the cost of the vendor-developed software for the MSCs. Such results would drive up the costs of providing wireless services and hamper their development, and will harm both carriers and consumers without providing any corresponding benefit to the numbering system. Moreover, wireless companies typically assign numbers, track utilization and order NXX codes through

states' experiments with "interim" conservation measures have already created a chaotic regulatory process that is starting to cost carriers such as Omnipoint a great deal of amount of money, manpower, time, without generating appreciable benefits for consumers or the industry.⁹

In short, granting additional numbering authority to the VSCC will only compound an erroneous policy and waste more industry effort, while creating further uncertainty, without drawing a commensurate benefit for consumers, carriers, the states, or the North American Numbering Plan ("NANP"). Instead of granting the VSCC's Petition, Omnipoint urges the Commission to reverse its recent policies and refuse to delegate any additional numbering authority to states such as Virginia until it has issued its long-promised national standards.

II. The Commission Should Not Grant the VSCC Authority to Set or Enforce Its Own Allocation Standards

The VSCC requests that the Commission grant it the additional authority to establish – and enforce -- several of its own "needs-based criteria" for assigning codes to carriers. These proposed standards would require carriers to: (1) demonstrate that they have – or will have, within six months – the facilities to serve a particular rate center before the carrier is assigned an NXX code for that rate center; (2) demonstrate that their "existing numbering inventory" is inadequate or that they need to rely on costly measures

large customer service centers with centralized administrative support systems. Developing and supporting different assignment and administrative processes and systems within a single work unit is untenable. See, e.g., Omnipoint Numbering Comments at 3.

⁹ Even at this early stage, Omnipoint is already struggling to respond to the various rulemakings, NXX code utilization reports, information requests and conservation proposals being issued by the newly empowered state regulators. This places a considerable strain on Omnipoint's limited resources, and diverts these resources from Omnipoint's public service goals to the frustrating tasks of state-by-state regulatory compliance.

to supply service (in the absence of new codes); and (3) meet fill rates determined by the VSCC before they may acquire a growth code in a rate center where they already have codes, even if the area code is not in jeopardy.¹⁰

Omnipoint strongly opposes permitting individual states to determine such standards, particularly due to the potentially negative impact such a devolution of authority would have on commercial mobile radio service (“CMRS”) providers. If states are to be granted any enforcement or reclamation powers, Omnipoint strongly believes that such power should only be exercised pursuant to national standards that take the specific characteristics and numbering needs of CMRS providers into account, and which provide for some form of uniformity in the manner in which they are enforced.

As the Commission aware, CMRS providers are assigned number resources in a different manner than landline carriers, and are also efficient users of numbering resources.¹¹ CMRS providers typically obtain NXX codes in only 10 to 13 percent of the local rate centers they serve, and spread their assigned numbers over a much larger geographic area than a traditional wireline carrier, such as entire Numbering Plan Areas (“NPAs”).¹² Due to these efficiencies, CMRS providers fill their NXX codes much more

¹⁰ See VSCC Petition at 4.

¹¹ See Federal Communications Commission: In the Matter of Cellular Telecommunications Industry Association’s Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability Obligations and Telephone Number Portability, Memorandum Opinion and Order, 1999 FCC LEXIS 641, at ¶ 47 (Feb. 9, 1999).

¹² As the Commission is aware, while wireline carriers are currently required to obtain NXXs in every rate center in which they desire to compete, CMRS providers have no such limitation since they serve larger multi-state (or even nationwide) local calling areas. As a result, it would be possible for CMRS providers to concentrate all of their NXXs in one rate center within a NPA were it not for the toll and long distance charges that wireline carriers charge their customers to call wireless users. To minimize charges to wireline callers, CMRS providers select specific rate centers within each NPA which are either local calls, or short range toll calls, from a large number of surrounding wireline rate centers. Likewise, when an additional NXX is required to meet growth in this group of rate centers, the CMRS provider

quickly than wireline carriers once the codes are brought into service. Moreover, since CMRS providers are generally growing far more rapidly than their wireline counterparts, they fill NXX codes more quickly once they are assigned. Despite this rapid growth, the utilization efficiency of CMRS providers can be illustrated by the following table of new NXX Codes allocated by the NANPA during the first three quarters of 1999.

	<u>1Q99</u>	<u>2Q99</u>	<u>3Q99</u>
CLEC Segment	1983	2316	2392
CMRS Segment	1101	942	884
Total (incl ILEC & Paging)	3815	4087	4034

The efficiency and speed with which they use their assigned numbers leaves CMRS providers acutely exposed to numbering shortages. When a CMRS provider suffers a shortage of numbers in any single service area the shortage affects a service area ten times the size of a wireline rate center, and effectively puts them out of business until they can obtain an additional code. In addition, while a wireline carrier may use numbers from an adjacent rate center to meet a temporary shortage, CMRS providers are frequently unable to do this (since the nearest available numbers may be in a non-adjacent rate center many miles away). Moreover, fill rate requirements or reclamation procedures which are tailored to the usage patterns of wireline providers leave CMRS providers on the brink of exhausting their assigned codes, since they have larger service areas and fewer NXXs to allocate.¹³ Each of these results leave CMRS providers at a

typically obtains another NXX in the same rate center as the existing NXX resource rather than in one of the surrounding rate centers.

¹³ If Omnipoint were assigned an NXX in a single rate center in Virginia, and then used these numbers within this NXX to serve customers in 10 adjacent rate centers, a blanket requirement that all carriers achieve a 75 percent fill rate within their NXXs would leave Omnipoint with approximately 3,000 unassigned numbers with which to serve customers spread over 11 rate centers. In contrast, a wireline carrier serving the same territory would by necessity have one NXX in each of the 11 rate centers, and would have approximately 33,000 numbers available for assignment to customers even when it reached the 75 percent fill rate.

serious competitive disadvantage, especially since they are incapable of participating in number pooling until they are LNP-capable.

These scenarios underscore the risks that are posed if the Commission continues to delegate state-specific and non-uniform fill rate, allocation and reclamation powers to state regulators such as the VSCC. Omnipoint is currently trying to dissuade several states from adopting industry-wide fill rates and code reclamation procedures that would prevent CMRS providers from obtaining critical numbering resources in the necessary time frame to serve customers in these markets.¹⁴ The effort expended in these proceedings seems especially wasteful since, as the Commission realizes, any standards that the states adopt under their “interim” authority may soon be replaced or substantially revised.

For similar concerns, Omnipoint also opposes the VSCC’s request that it be granted the authority to order carriers to return unused codes, reserved codes or thousand-block codes from carriers it determines to have “excess number resources,”¹⁵ as well as to “investigate test codes and determine whether the carrier’s use of these codes for testing purposes is warranted.”¹⁶ Omnipoint stresses that in the interest of uniformity, consistency and efficiency, the NANPA should continue to be the party responsible for taking enforcement actions and for reclaiming numbering resources from carriers rather than individual state regulators.¹⁷

¹⁴ See Comments of Omnipoint Communications MB Operations, LLC in Maine PUC Docket No. 98-634 (filed October 29, 1999).

¹⁵ See VSCC Petition at 6.

¹⁶ Id. at 7.

¹⁷ See, e.g., Omnipoint Reply Comments Concerning Petition of the New Hampshire Public Service Commission for Additional Numbering Authority, CC Docket 96-98, File No. NSD-L-99-71 (filed Oct. 15, 1999).

III. The VSCC Should Not Be Allowed to Require Additional Reporting by Carriers

The VSCC requests the authority to require mandatory number utilization and forecast reporting by all carriers so that it can “monitor usage and enforce numbering standards” and “ensure that previously assigned numbering resources are being used efficiently before additional resources are assigned.”¹⁸ To meet this goal, the VSCC specifically seeks to require carriers to complete a utilization and forecast report regarding their existing codes whenever they request additional resources. This report would presumably be an accompaniment to the standard industry “Months To Exhaust” worksheet used by the NANPA. The VSCC also requests the ability to conduct audits on carriers as a means of “increasing industry accountability,” as a way to “determine that only applicants with bona fide needs . . . receive [additional numbering resources],” and as a means of “evaluating needs-based assignment standards.”

Omnipoint opposes both requests. As a general matter, Omnipoint opposes the creation of such state-specific reporting requirements, which will be both inefficient and largely pointless given the ongoing overhaul of the CO Code Use Survey (“COCUS”) and the Commission’s forthcoming national standards on number utilization. Omnipoint specifically opposes the VSCC’s requests, however, because they also go beyond what the Commission has allowed in past delegations – namely, giving state regulators the power to require carriers to participate in the COCUS. Omnipoint stresses that it does not oppose making carrier participation in the COCUS mandatory,¹⁹ and does not oppose allowing the

¹⁸ See VSCC Petition at 4-5.

¹⁹ As a member of the NANC, Omnipoint has supported a mandatory, nationwide, uniform methodology for reporting utilization and forecast data to the NANPA, regardless of the jeopardy-status of any NPA.

states to compel carriers to respond to the NANPA. This should, however, be the limit of the states' additional authority in this area. No additional reporting is necessary, since state regulators should not need further detail in order to take short-term, interim conservation measures.

Omnipoint is also concerned about preserving the confidentiality of such numbering data once it is submitted to state regulators such as the VSCC, many of which will not prevent the disclosure of such data once it is submitted to them (unlike the NANPA). As a result, the VSCC should continue to evaluate a CMRS provider's need for numbering resources through the "Months to Exhaust" worksheet the carrier submits to the NANPA as an accompaniment to every code request, but only where the individual provider's information will be protected. If such protection can not be assured by an individual state, the NANPA should only be permitted to provide aggregate data to the state.

Omnipoint also opposes granting the VSCC any auditing authority over carrier COCUS responses and code requests. In past comments submitted to the Commission, Omnipoint has supported expanding the NANPA's authority to conduct audits of carrier submissions. Giving the VSCC its own additional auditing authority would be inappropriate, since it would split the NANPA's jurisdiction over code requests and unnecessarily complicate both the NANPA and the VSCC's regulatory roles. Moreover, such a system of dual, overlapping auditing authority would pose a significant regulatory burden for carriers. As a result, Omnipoint strongly believes that granting interim auditing powers to individual state regulators such as the VSCC would not improve efficiency, and would only complicate long-term efforts to increase and strengthen the NANPA's powers.

**IV. The VSCC Should Not Be Given
Authority to Order Sequential Numbering Use**

The VSCC requests the authority to order carriers to assign numbers within an NXX or thousand-block sequentially.²⁰ In support of this request, the VSCC asserts that such measures will help it preserve blocks of numbers for eventual number pooling, pursuant to a Virginia-based or national plan. For the reasons discussed above, Omnipoint opposes any such state-based restraints on the assignment of numbering resources absent unified, national guidelines. Omnipoint typically reserves 100 numbers in each NPA-NXX for temporary assignment to customers of other domestic and international service providers who are roaming within the Omnipoint network. These numbers are reclaimed and reused automatically as roamers enter and leave the Omnipoint coverage area. It also reserves certain numbers within each NPA-NXX for testing, engineering, voice mail, sales, and other purposes, including testing numbers reserved by its joint venture partners. Requiring carriers such as Omnipoint to change the numbers that are reserved for these purposes on an “interim” basis would be disruptive and a needless waste of resources absent a final ruling by the Commission in CC Docket 99-200.

It should also be clear that the VSCC’s rationale that ordering carriers to assign numbers sequentially will preserve thousand-blocks for pooling purposes does not apply to CMRS providers. Since CMRS providers are not currently LNP-capable, the Commission has not required them to participate in any state-based number pooling trials. Consequently, this burdensome requirement should not be mandated for CMRS providers until such time as the Commission issues uniform, national guidelines or until CMRS providers such as Omnipoint become LNP-capable.

²⁰ See VSCC Petition at 7.

V. The VSCC Should Not Be Allowed to Maintain Rationing Procedures for Six Months Following Area Code Relief

Omnipoint opposes the VSCC's request for authority to maintain the current central office code rationing measures for "at least" six months after the implementation of all area code relief plans, including the authority to determine "all aspects of how central office codes shall be assigned pursuant to that rationing plan."²¹ The VSCC's sole justification for this extremely broad request is an unsubstantiated claim that it will help control the "artificial increase in demand" for remaining NXXs that will occur once relief plans have been announced. Omnipoint opposes this request as vague and poorly-justified, especially given the broad scope of authority that the VSCC is attempting to obtain. In addition, since such number rationing measures disproportionately affect CMRS providers and disadvantage them against landline competitors,²² Omnipoint strongly urges the Commission to deny this request.

VI. The Commission Must Continue to Ensure That Number Pooling Trials Are Limited to LNP-Capable Carriers

Omnipoint specifically opposes the VSCC's requests for authority to order "nondiscriminatory" mandatory thousand-block number pooling.²³ For the reasons discussed above, Omnipoint believes that permitting states to implement number pooling, on a piecemeal, state-by-state basis, prior to the adoption of national standards is a bad policy, which will impose heavy burdens on carriers and complicate the adoption of nationwide policies at a later date. However, Omnipoint recognizes that barring

²¹ See VSCC Petition at 7 (emphasis added).

²² See supra at 6-8.

²³ See VSCC Petition at 8.

reconsideration of the Commission's recent actions, the Commission may grant the VSCC much the same numbering authority that it has previously delegated to the other states.²⁴ In the face of this reality, Omnipoint therefore urges that if the Commission grants the VSCC authority to require mandatory number pooling, it should continue to specify that the VSCC's authority to conduct number pooling trials is limited to LNP-capable carriers, as it has done in previous delegations. This limitation is especially important since the VSCC Petition contains no detail regarding the scope of its proposed number pooling trials and does not clearly state that mandatory thousand-block number pooling exempts CMRS providers.

Omnipoint continues to stress that the Commission must establish clear boundaries if it is to prevent the states from overstepping their delegated numbering authority. The need for such boundaries is underscored by recent information requests which Omnipoint has been served by the Connecticut Department of Public Utility Control, the Florida Public Service Commission, and the Massachusetts Department of Telecommunications and Energy, which request that non-LNP capable carriers as well as LNP capable carriers submit utilization information at the thousand-block level.²⁵ As such, these requests appear to disregard the Commission's recent forbearance ruling exempting CMRS providers from LNP in the top-100 Metropolitan Statistical Areas until the year 2002. Omnipoint and other CMRS providers do not wish to be trapped between the states and the Commission in avoidable quarrels over the scope of the states'

²⁴ As the Commission is aware, it has previously delegated state regulators the ability to implement mandatory number pooling trials, adopt "interim" number assignment standards, and assume enforcement and auditing powers over carriers.

²⁵ See CTIA Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, Memorandum Order and Opinion, 14 FCC Rcd 3092 (1999).

numbering authority, and do not wish to become embroiled in pointless fights with the states over matters that should already be settled (such as the participation of CMRS providers in mandatory number pooling trials). As the CTIA has correctly indicated in a parallel proceeding, “local” number portability requirements that require the participation of CMRS providers would affect the wireless industry on a national scale, and could prejudice later efforts to develop national, uniform standards.²⁶ To prevent such time-wasting, costly and inefficient results, Omnipoint consequently encourages the Commission to specifically limit any interim number pooling authority that it may grant the VSCC to LNP-capable carriers.

VII. Any Grant of Authority to the VSCC Should Include the Power To Implement Technology and/or Service Specific Overlays

Omnipoint continues to reiterate its support for technology and/or service-specific overlays, and stresses that if state regulators such as the VSCC are granted other numbering authority, they should also be allowed to implement technology and/or service specific overlays as a relief measure.

In the comments it filed in CC Docket 99-200, Omnipoint previously urged the Commission to reconsider its bar on technology and service-specific overlays since they promise to be a particularly efficient means of resolving numbering shortages. Since wireless-only or technology-only overlays are implemented on a state-wide basis or on the basis of MTA boundaries, they promise an immediate and effective solution to the numbering shortages experienced by CMRS providers.²⁷ As such, Omnipoint has

²⁶ See CTIA Comments in File No. NSD-L-99-71/CC Dkt. No. 96-98, at 6 (addressing the New Hampshire Public Utilities Commission’s requests for additional numbering authority).

²⁷ Despite their numbers, CMRS providers are comparatively blameless for the current number resource shortages. See Cellular Telecommunications Industry Association’s Petition for Forbearance

therefore concluded that wireless-only or technology-specific overlays are no more discriminatory, inherently anti-competitive, nor any more harmful to consumers than the current rate center methodology.²⁸

For this reason, Omnipoint continues to support the use of technology-specific or wireless-only overlays, and requests that the Commission modify its decision in the Ameritech Order, which was codified in 47 C.F.R. § 52.19(c)(3)(i). While the Ameritech Order sought to protect CMRS providers at a time when the full record on efficient wireless industry number utilization was not known, it is now appropriate for the Commission to revisit this ruling.²⁹

Omnipoint continues to recommend that the Commission specifically consider the following parameters for MTA-wide, NPA-wide, or state-wide overlays as means of addressing area code exhaust and number resource conservation: (a) mandatory assignment of NXXs from a new overlay code to CMRS providers, including paging carriers, and carriers provisioning dedicated fax and data lines that would not create rate center confusion in that the lines would be limited to this use and rated on a LATA basis; (b) mandatory requirement that all new wireless handsets be assigned to the new overlay code; and (c) Commission forbearance from the mandatory ten-digit dialing requirement

From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, Memorandum Opinion and Order, 14 FCC Rcd 3092, at ¶ 47 (1999). Since wireline carriers are competing for the same customers as CMRS providers, a new customer for one carrier is a lost customer for another. Wireline carriers are growing at a rate of 3 to 5 percent each year. In contrast, CMRS providers are attracting large number of new subscribers and are growing at a net rate of 20 to 30 percent each year. See Omnipoint State Comments at FN 11.

²⁸ Id.

²⁹ See Omnipoint State Comments at 10.

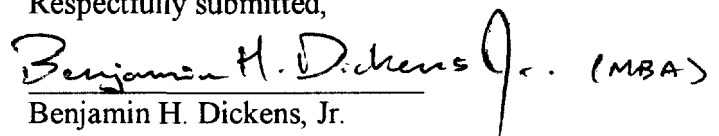
for all dialing within the existing or new NPAs as a result of the implementation of such a non-traditional overlay.³⁰

³⁰ See Omnipoint Numbering Comments at 19.

VIII. Conclusion

For the foregoing reasons, Omnipoint encourages the Commission to reject the VSCC's petition, and to reconsider its policy of granting state regulators additional numbering authority prior to issuing uniform, national guidelines. Omnipoint specifically opposes granting the VSCC any authority to create and/or enforce number allocation standards, require additional utilization and forecast reporting by carriers, order the return of numbering resources, and require sequential number assignments within NXX codes. Alternatively, if the Commission grants the VSCC additional numbering authority, Omnipoint requests that the Commission clarify that the states may not force the participation of CMRS providers in mandatory number pooling trials. Lastly, Omnipoint stresses that while it opposes all of the VSCC's requests for authority, Omnipoint alternatively believes that any grant of numbering authority to the VSCC should include the power to implement technology and/or service specific overlays.

Respectfully submitted,

 (MBA)

Benjamin H. Dickens, Jr.
Michael B. Adams, Jr.
Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, D.C. 20037

Attorneys for
Omnipoint Communications, Inc.

January 20, 2000

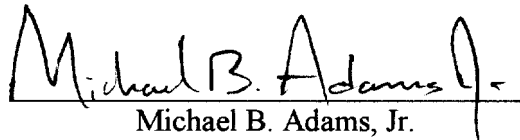
CERTIFICATE OF SERVICE

I, Michael B. Adams, Jr., hereby certify that I am an attorney with the law firm of Blooston, Mordkofsky, Jackson & Dickens and that a copy of the foregoing **"COMMENTS OF OMNIPOINT COMMUNICATIONS, INC."** was served this 20th day of January, 2000, by messenger to the persons listed below.

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W. – Suite TW-A325
Washington, D.C. 20554
(original plus four copies)

Alvin McCloud
Common Carrier Bureau
Network Services Division
Federal Communications Commission
445 Twelfth Street, S.W. – Room 6-A320
Washington, D.C. 20554
(two copies)

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Michael B. Adams, Jr.